

**CHAPTER 5. NOISE CONTROL**

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**Sec. 12-5-1. Definitions.**

All words used in this chapter not defined below shall be in conformance with applicable publications of the American National Institute (ANSI) or its successor body. For the purpose of this chapter, the following words and phrases are defined and shall be construed as defined below unless it shall be apparent from the context that a different meaning is intended:

- (1) *A-weighted sound level*: The sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated dB(A).
- (2) *Decibel (dB)*: A unit for describing the amplitude of sound, equal to twenty (20) times the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure, which is twenty (20) micronewtons per square meter.
- (3) *Fraternity house/sorority house*: A building occupied by and maintained exclusively for college or university students who are affiliated with a social, honorary or professional organization which is chartered by a national fraternal or sororal order and which is recognized by the administration of East Carolina University or by any other institution of higher education located in Pitt County.
- (4) *Sound*: An oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that causes compression, and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.
- (5) *Sound pressure level*: Twenty (20) times the logarithms to the base 10 of the ratio of the root mean squared (RMS) sound pressure to the reference pressure of twenty (20) micronewtons per square meter.
- (6) *Sound level meter*: An instrument which includes a microphone, amplifier, RSM detector, integrator or time averager, output meter and weighting network used to measure sound pressure levels.
- (7) *Sound level*: The weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network, such as A, B or C as specified in American National Standards Institute specifications for sound level meters (ANSI S1.41971 or the latest approved version thereof). If the frequency weighting employed is not indicated, the A-weighting shall also apply.
- (8) *Noise*: Any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.
- (9) *Slow response*: A measuring technique to obtain an average value when measuring a noise level that fluctuates over a range of four (4) dB or more. By way of illustration only, a sound level meter set on "slow response" would record a sound level between two (2) and six (6) decibels less than the reading for a steading signal of the same frequency and amplitude when a tone of one thousand (1,000) Hz and for a duration of 0.5 seconds is applied.
- (10) *Person*: Any individual, association, partnership, or corporation and includes any officer, employee, department, agency or instrumentality of the United States, the state or any political subdivision thereof.

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- (11) *Emergency work*: Any work performed for the purpose of preventing or alleviating physical trauma or property damage threatened or caused by an existing or imminent peril.
- (12) *Outdoor amplified sound*: Any sound using amplifying equipment, whose source is outside or whose source is inside and the sound propagates to the outside through open doors or windows or other openings in the building.
- (13) *Classification of use occupancies*: Use occupancies shall be as follows:
  - a. “Residential Use”: All premises containing habitually occupied sleeping quarters. However, premises containing transient commercial sleeping quarters are considered commercial uses. Hospitals, nursing homes, schools, libraries, fraternity and sorority houses, and churches are considered residential uses.
  - b. “Public space”: Any area owned, utilized or occupied by a municipal, county, state or federal agency, including, but not limited to, park or recreation areas, streets and sidewalks, the Evans Street Mall and the campus of East Carolina University.
  - c. “Commercial or business”: All premises where sales, professional or other commercial activities are legally permitted, except that residences with lawful home occupations are considered residential.
  - d. “Manufacturing or industrial”: All premises where goods or wares are made, warehoused or stored or where manufacturing is legally permitted.
  - e. “Agricultural”: All premises which are bona fide farms or which are characterized by farming activities as the primary use of the premises.
  - f. In classifying uses under this section, the zoning classification of an area may be considered, however, the actual use of premises shall control when the use and the zoning classification conflict. Any area not otherwise classified under this section shall be considered commercial.
  - g. In case of multiple use the more restrictive use category shall prevail.
- (14) *Holiday*: For the purposes of this chapter, the following days will be recognized as holidays for the purpose of granting permits to exceed maximum sound level: St. Patrick’s Day, Memorial Day, Independence Day, Labor Day, Halloween and December thirty-first.
- (15) *Muffler*: An apparatus consisting of a series of chambers or baffle plates designed for the purpose of transmitting gases while reducing sound emanating from such apparatus.
- (16) *Owner of real property*: The owner, or listing owner, of real property as defined in G.S. 105-302.
- (17) *Tenant*: One who resides on or has the temporary use or occupation of real property owned by another person. In the case of residential property, “tenant” shall be construed to mean any individual actually residing at the residential location, whether such person is listed on a lease or not.
- (18) *Sound amplification system*: Any radio, tape player, compact disc player, loud speaker or other electronic device used for the amplification of sound.
- (19) *Plainly audible*: Any sound produced by a sound amplification system which can be clearly heard at a distance of seventy-five (75) feet or more. Measurement standards shall be the auditory senses, based upon the direct line of sight. Words or phrases need not be discernible and bass reverberations are included. (Ord. No. 1267, § 2, 5-5-83; Ord. No. 2307, §§ 1(A), 2(A), 2-14-91; Ord. No. 2472, § 1(A), 6-8-92)

### **Sec. 12-5-2. Standards.**

(a) Standards, instrumentation, personnel, measurement procedures, and reporting procedures to be used in the measurement of sound shall be as specified in this section, and in administrative directives issued by the city manager.

(b) Sound level measurement shall be made with a sound level meter using the A-weighting scale, set on “slow” response.

(c) Sound level meters shall be at least Type II meeting American National Standard Institute (ANSI) S1.4-1971 requirements. Persons using the sound level meters shall be trained in sound level measurement and the operation of sound level measurement equipment.

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(d) The city manager shall issue an administrative directive adopting standards and procedures for sound level measurement and enforcement consistent with this chapter. (Ord. No. 1267, § 2, 5-5-83)

### **Sec. 12-5-3. Maximum permitted sound levels by use occupancy.**

(a) The use of sound amplifying equipment is limited to the conditions specified in this section.

(b) Outdoor amplified sound, including a live musical group or individual using sound amplifying equipment, may be produced only if an authorized agent of the sponsoring business, organization or group has been granted an “outdoor amplified sound permit.” This permit must be signed by a representative of the business, organization or group holding or sponsoring the event at which the outdoor amplified sound will be produced.

(c) Except as allowed in subsection (d) below, no person shall operate or cause to be operated any source of sound in such a manner as to create a sound level which at its peak exceeds the limits set forth for the use occupancy categories in Table 1 when measured at or beyond the property line of the property from which the sound originates. For purposes of measurement, the back of the curb, the outside edges of driveways, fences, hedges, or other physical features commonly associated with property boundaries are presumed to be at a point which is at or beyond the property line. In all cases the maximum sound level permitted by use occupancy shall be determined on the basis of the use occupancy of the property from which the sound originates and not by the use occupancy of any surrounding property. Sound which originates from a dwelling unit in a duplex or other multifamily housing unit shall be measured from any point which is at least twenty-five (25) lineal feet, whether inside or outside a building, from the nearest point of the enclosed or habitable space of the dwelling unit from which the sound originates.

Table 1  
*Sound Levels by Use Occupancy*

Use Occupancy Category	Time	Sound Level Limit (dB(A))
Residential	7:00 a.m.--11:00 p.m.	60
	11:00 p.m.--7:00 a.m.	55
Public space, commercial or business	7:00 a.m.--11:00 p.m.	65
	11:00 p.m.--7:00 a.m.	60
Manufacturing, industrial or agricultural	At all times	75

(d) Sound levels in excess of the limits established in Table 1 will be permitted in public space, commercial or business space, manufacturing, industrial or agricultural space, but not on residential space, as follows:

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Table 2

	Without Permit (dB(A))	With Permit to Exceed (dB(A))
Friday evening (5:00 p.m.--11:00 p.m. Saturday)....	70	80
Saturday evening (10:00 p.m.--11:00 p.m. Sunday)....	70	80
Holidays (as defined in section 12-5-1)(Noon--11:00 p.m.)....	70	80

(e) Fraternity houses and sorority houses shall be classified as “residential” use and shall conform to the regulations in Table 1 of subsection (c) above except as provided in this subsection. Each fraternity and each sorority may be granted one (1) “permit to exceed” during the fall and spring academic semesters. For purposes of this subsection, the fall academic semester shall be deemed to begin seven (7) days before the first day of classes, and shall end seven (7) days after the last scheduled day of exams, and the spring academic semester shall be deemed to begin seven (7) days before the first day of class and end one (1) day after commencement. Permits to exceed allowed under this subsection shall not be transferrable from one (1) organization to another, or from one (1) location to another. Applications for permits under this subsection shall be considered under the same criteria as any other application, except that no permit may be issued under this subsection to any fraternity or sorority which had a permit revoked during the immediately preceding fall or spring semester.

(f) No property owner shall allow a noise-related nuisance or health or safety hazard to be created or maintained by or on account of tenants of the property owner. For purposes of this subsection a noise-related nuisance or health or safety hazard shall be deemed to exist when a tenant or group of tenants at a specific location receives a third citation for a noise ordinance violation pursuant to this chapter. The property owner shall be liable for the costs of remedying the nuisance or health or safety hazard in accordance with the provisions of section 12-5-9(e). A property owner may be held liable for the costs of abating the nuisance or remedying the health or safety hazard only if the property owner has been notified in writing, via actual delivery or certified mail, of the first two (2) ordinance violations. A property owner shall be liable for the costs of abating the nuisance or remedying the health or safety hazard upon the third and any subsequent action by the same tenant at a specific location, provided the third violation occurs at least fifteen (15) days from the date of actual receipt of notice of the second violation. It shall be a complete defense to a citation under this subsection if the owner of the real property involved can prove that he or she is actively pursuing an eviction process according to law, and that the eviction process was begun prior to the date of the third or any subsequent violation by the same tenant at a specific location. (Ord. No. 1267, § 2, 5-5-83; Ord. No. 2083, § 2, 10-23-89; Ord. No. 2307, §§ 1(B), 2(B), (C), 2-14-91)

**Sec. 12-5-3.1. Prohibited noise.**

(a) It shall be unlawful for any person or persons to play, use, or permit to be played any loud “sound amplification system” if it is located in any of the following:

- (1) Any public property, including any public street, highway, building, sidewalk, park or thoroughfare; or
- (2) Any motor vehicle on a public street, highway, public space, or commercial space; or
- (3) Any commercial space or place of business;

and if the sound generated is “plainly audible” at a distance of seventy-five (75) feet from the device producing sound, unless authorized or exempted by any other section of this article.

(b) Possession by a person or persons of any machines or devices which may be classified as a “loud sound amplification system” enumerated in subsection (a) shall be prima facie evidence that person or those persons operated that machine or device. (Ord. No. 2472, § 1(B), 6-8-92)

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### **Sec. 12-5-4. Exceptions.**

The following are exempt from the provisions of Table 1 and Table 2 of section 12-5-3:

- (1) Sound emanating from scheduled outdoor athletic events.
- (2) Construction operations from 7:00 a.m. to 9:00 p.m. on weekdays and 8:00 a.m. to 9:00 p.m. on weekends for which building permits have been issued or construction operations not requiring permits; providing all equipment is operated in accord with the manufacturer's specifications and with all standard equipment manufacturer's mufflers and noise-reducing equipment in use and in proper operating condition.
- (3) Noise of safety signals, warning devices, emergency pressure relief valves, and all church bells. For purposes of this subsection, the term "church bells" shall not include electronic devices or artificial sound reproduction systems intended to sound like church bells.
- (4) Noise resulting from any authorized emergency vehicle.
- (5) Noise resulting from parades, lawful picketing or other public demonstrations protected by the U.S. Constitution or federal law, or for which a local permit has been granted by the city, provided such activity is of a temporary duration lasting no longer than two (2) hours during any twenty-four-hour period. Regulation of noise emanating from activities under permit shall be according to the conditions and limits stated in this chapter and according to any additional conditions stated on the permit.
- (6) Unamplified and amplified sound at street fairs conducted, sponsored or sanctioned by the city.
- (7) All noises coming from the normal operations of properly equipped aircraft (not including scale model aircraft).
- (8) Noise from noisemakers on holidays and fireworks on holidays or at times allowed under a pyrotechnics permit issued pursuant to Article 54, Chapter 14 of the General Statutes of North Carolina.
- (9) Lawn mowers and agricultural equipment used between daylight hours 7:00 a.m. and 9:00 p.m. when operated with all the manufacturer's standard mufflers and noise-reducing equipment in use and in proper operating condition.
- (10) Unamplified and amplified sound at community concerts conducted, sponsored or sanctioned by the city.
- (11) Practice sessions or performances by marching bands.
- (12) Noise from trains and associated railroad rolling stock when operated in proper repair and manner.
- (13) Emergency work, as defined in section 12-5-1.
- (14) Live performances by solo musicians, or solo musicians and one (1) vocalist, with or without amplified sound, in commercial or business uses in the area from Reade Street west to Washington Street and Reade Circle north to Second Street, provided that no noise measurement taken at the property line shall exceed ninety (90) (db(A)).

Those places of business found to be in violation of this limit shall be subject to the penalties in Section 12-5-9(a). (Ord. No. 1267, § 2, 5-5-83; Ord. No. 2472, § 1(C), 6-8-92)

### **Sec. 12-5-5. Permits.**

(a) *Who may apply.* A person or group of persons may produce or cause to be produced sound in excess of the limits set in Table 1 only if a "permit to exceed" has been obtained. With a permit granted pursuant to this section, maximum sound levels shall be as set out in Table 2.

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(b) *Application for permit.* Any person or group of persons desiring an “outdoor amplified sound permit” or a “permit to exceed” shall apply as provided in this section, and shall provide all information required. All applications for a “permit to exceed” shall be submitted to the chief of police or his designee at least seventy-two (72) hours prior to the scheduled event; failure to comply with this requirement shall be grounds for denying the permit.

(c) *Action by chief of police.* The chief of police or his or her designee shall act upon all requests for permits. In considering and acting on all requests for permits pursuant to this chapter, the chief of police shall consider, but shall not be limited to the following, in issuing or denying such permit: The timeliness of the application; the nature of the requested activity; previous experience with the applicant; the time of the event; other activities in the vicinity of the location proposed; the frequency of the application; the cultural or social benefits of the proposed activity; the effect of the activity on any residential area of the city and, previous violations, if any, of the applicant. In assessing “other activities in the vicinity” and the frequency of applications in the vicinity, the chief shall not issue more than two (2) permits per month within a one thousand-foot radius of each other, or issue permits for events on consecutive weekends (Friday and Saturday) within a one-thousand-foot radius of each other. In considering or acting upon a request for a “permit to exceed” requested by a group other than a fraternity or sorority, the chief of police or appointed designee shall limit permits granted at any specific location to no more than two (2) “permits to exceed” per year.

(d) *Fee for permit.* Every application for a permit or permits shall require a fee, and such fee shall be set out in the Manual of Fees for the City of Greenville.

(e) *Conditions on permits.* “Permits to exceed” and “outdoor amplified sound permits” shall specify the duration for which noncompliance shall be permitted and shall prescribe the conditions or requirements necessary to minimize adverse effects upon the community or surrounding neighborhood. The chief of police or his or her designee may require, but shall not be limited to, the following:

- (1) No sound speakers may be set up more than ten (10) feet off the ground; and
- (2) That permit holder(s) change the arrangement of amplifying equipment or sound instruments upon the request of any Greenville police officer so as to minimize the disturbance to others resulting from the position or orientation of the amplifying equipment or from atmospherically or geographically caused dispersal of sound beyond the property lines.
- (3) That adjoining property owners surrounding the location proposed as the site of the permitted event be notified by the applicant at least seventy-two (72) hours prior to the scheduled event, and also advised of the time by which cleanup of the area will be accomplished. Notice to the adjoining property owners shall include a statement indicating that comments or concerns regarding the issuance of a permit at the proposed location may be made to the chief of police prior to the event. These conditions are mandatory on all “permit to exceed” applicants, except that neither this subsection nor subsection (6) below shall apply to university-sponsored events approved by the chancellor on university-owned property. For the purposes of the provision of notice to adjoining property owners as required by this subsection, when the location proposed as the site of the permitted event is at or within an apartment complex or other multi-family dwelling development, adjoining property shall include all units within the development which are wholly or partially within one hundred feet of the site of the permitted event and all properties which either abut directly on the external boundary of the development or are only separated from the external boundary of the development by a street or the right-of-way of a street, railroad, or other public service corporation.
- (4) That no permitted event may last more than four (4) hours in duration. This is a mandatory condition.
- (5) That no event may extend beyond 11:00 p.m. This is a mandatory condition.
- (6) That permit holders hire off-duty Greenville police officers, equipped with noise meters, to monitor compliance of the applicant with the conditions on the permit. The applicant will be required to employ the following number of off-duty Greenville police officers based on the estimated number of persons attending the event:
  - 1--50: one (1) off-duty officer
  - 51--100: two (2) off-duty officers
  - 101 or more: four (4) or more off-duty officers as determined at the sole discretion of the chief of police.It is the responsibility of the permit holder to ensure that the number of persons actually attending the event do not exceed the estimated numbers specified in the application for determining the number of off-duty officers required at the event.

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- (7) That the site of the event, and the area surrounding the site of the event, will be cleaned, by the applicant, of all the trash, litter and debris by 10:00 a.m. the following day, or by sunset of the day of the event if the event ends at least four (4) hours before sunset.

(f) *Cooperation with police.* Permit holder(s) shall agree to cooperate with the police department in enforcing the noise control ordinance by having the signer(s) of the permit available at the site of the event during the entire time for which a permit has been issued and capable of assisting the police in enforcing the noise control ordinance. Failure of such signer(s) of a permit to be present or to assist the police in complying with this chapter will be cause for revocation of said permit.

(g) *Recognition of equivalent permit processes.* The chief administrative officer of any governmental body, institution or agency located in Pitt County is authorized to establish, administer and enforce a permit process which is substantially equivalent to the process contained in subsections (a), (b) and (d) of this section. When a permit process has been certified by the city manager as being substantially equivalent, sponsors of events which take place on:

- (1) Premises owned, utilized or occupied by the governmental body, institution or agency; or
- (2) Premises owned, utilized, or occupied by organizations or agencies affiliated with a governmental entity which is recognized to issue permits,

may apply for the substantially equivalent permit in lieu of the permit issued by the city. Any activity conducted under a permit issued by a governmental body, institution or agency other than the city shall be subject to all requirements of this chapter, and a permit issued under a substantially equivalent process recognized by the city manager shall be, for all purposes, the equivalent of a permit issued under this section, including the requirements of subsection (e).

A copy of all permits issued under a substantially equivalent process recognized by the city manager shall be forwarded to the chief of police as quickly as possible, but in no case later than forty-eight (48) hours before the commencement of the event covered under a permit. No permit issued under a substantially equivalent process recognized by the city manager shall be valid if received by the chief of police less than forty-eight (48) hours before the commencement of the activity covered by the permit. All equivalent permits must be signed by the chief of police to be valid. (Ord. No. 1267, § 2, 5-5-83; Ord. No. 2083, §§ 3--5, 10-23-89; Ord. No. 2307, §§ 2(D)--(K), 2-14-91; Ord. No. 2472, § 1(D), 6-8-92; Ord. No. 2648, § 1, 6-10-93; Ord. No. 98-122, 9-10-98)

### **Sec. 12-5-6. Motor vehicle noise.**

(a) It shall be unlawful for any person to drive, operate, move, or permit to be driven, operated, or moved, a motor vehicle or combination of vehicles at any time in such a manner that the sound level of the vehicle exceeds the levels set forth for that category of vehicles as shown below:

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Table 3  
*Maximum Motor Vehicle Sound Level in dB(A)*

	Speed Limit 35 mph or Less	Speed Limit 35 mph or More	Vehicle Stationary
Motor vehicle with a gross vehicle weight rating (GVWR) of less than 10,000 pounds	81	85	83
Motorcycle	81	85	83
Motor vehicle with a GVWR of more than 10,000 pounds	89	94	91
Any other motor vehicle or any combination of vehicles towed by any motor vehicle	76	80	

(b) Sound levels are to be measured at a distance of twenty-five (25) feet from the nearest lane(s) being monitored and at a height of at least four (4) feet above the immediate surrounding surface.

(c) This section shall apply to the total noise from a vehicle and shall not be construed as limiting or precluding the enforcement of any other provisions of this chapter relating to motor vehicle mufflers or noise control.

(d) Traffic, aircraft and other transportation noise sources and other background noises shall not be considered in taking measurements under this section. (Ord. No. 1267, § 2, 5-5-83)

**Cross reference(s)**--Transportation and traffic, Title 10.

**Sec. 12-5-7. Mufflers.**

(a) It shall be unlawful for any person to operate or cause to be operated a motor vehicle unless the exhaust system is free from defects which affect sound reduction.

(b) No person shall remove or render inoperative, or cause to be removed or rendered inoperative, other than for purposes of maintenance, repair or replacement, any muffler or sound dissipative device on a motor vehicle.

(c) It shall be unlawful for any person to modify the exhaust system of a motor vehicle by the installation of a muffler cut-out or bypass, and no person shall operate a motor vehicle which has been so modified. (Ord. No. 1267, § 2, 5-5-83)

**Sec. 12-5-8. Off-road vehicles.**

(a) It shall be unlawful for any person to operate or cause to be operated a recreational or off-road motor vehicle individually, in a group, or in an organized racing event, on public or private property in such a manner that the sound level exceeds the maximum permissible levels set forth previously in section 12-5-6 for motorcycles, adjusted to a distance of twenty-five (25) feet from the path of the vehicle when operated on public space, or at the boundary of private property when operated on private property.

(b) This subsection shall apply to all recreational vehicles, whether or not duly licensed or registered including, but not limited to, commercial or noncommercial racing vehicles, motorcycles, go-carts, amphibious craft and dune buggies.

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(c) Use of such vehicles off-road except for emergency purposes and except to attain access from private property to public rights-of-way, shall be completely prohibited between the hours of 10:00 p.m. and 7:00 a.m. (Ord. No. 1267, § 2, 5-5-83)

### **Sec. 12-5-9. Animal noises prohibited.**

It shall be a violation of this chapter for any person to keep or maintain, or permit the keeping of, on any premises owned, leased, occupied or controlled by such person, any animal or fowl, the keeping of which is otherwise lawful, which by habitual or frequent sound, cry, howling, barking, squawking or other noise, shall disturb the quiet, comfort or repose of any person. (Ord. No. 96-101, § 1, 10-7-96)

### **Sec. 12-5-10. Penalties for violations.**

(a) Any violation of this chapter shall subject the offender to a civil penalty in the amount of fifty dollars (\$50.00).

(b) Each day's continuing violation shall be a separate and distinct offense.

(c) Notwithstanding subsection (a) above, provisions of this chapter may be enforced through equitable remedies issued by a court of competent jurisdiction.

(d) In addition to or in lieu of remedies authorized in subsections (a) and © of this section, violations of this chapter may be prosecuted as a misdemeanor in accordance with G.S. 160A-175.

(e) A property owner shall be liable for the cost of abating the nuisance or remedying the health or safety hazard created by a tenant for a third or subsequent violation of this chapter, as specified in section 12-5-3(f). A property owner shall be liable for the actual cost of abatement/remedy taking into account the cost of law enforcement personnel salaries, law enforcement equipment, administrative overhead, law enforcement record keeping, mailing and notification costs, and any other costs directly or indirectly attributable to the cost of abating the nuisance or remedying the health or safety hazard. In no case shall the cost assessed under this provision be less than one hundred dollars (\$100.00) for the third violation by the tenant (initial assessment of property owner), or less than seventy-five dollars (\$75.00) for any subsequent assessment for the same-tenant violation. If costs assessed pursuant to this subsection are not paid by the property owner within thirty (30) days of receipt of a statement of costs from the city, the costs may be placed as a lien on the property where the hazard existed. However, any violation of a maximum sound level of eighty-five (85) dBA under provisions of a permit to exceed shall subject the offender to immediate revocation of the permit and to a civil penalty in the amount of two hundred dollars (\$200.00). Upon revocation of a permit, maximum sound levels shall be reduced to those otherwise permitted under this chapter. (Ord. No. 1267, § 2, 5-5-83; Ord. No. 2083, § 6, 10-23-89; Ord. No. 2307, §§ 1(C), 2(L), 2-14-91)

**Editor's note--**Ord. No. 96-101, § 1, adopted Oct. 7, 1996, renumbered § 12-5-9 as § 12-5-10.